



LANDLORD TENANT COMMISSION REGULATION

Department of Housing & Community Affairs • 100 Maryland Ave. • Rockville, Maryland 20850

Subject Ratio Utility Billing System Regulation	Number 3-03 AM
Originating Department Department of Housing & Community Affairs	Effective Date November 25, 2003

Commission on Landlord-Tenant Affairs Regulation

RATIO UTILITY BILLING SYSTEM REGULATIONS

Issued by: Commission on Landlord-Tenant Affairs

Regulation No. 3-03 AM

Authority: § 29-10(a) Montgomery County Code

Council Review: Method 2 under § 2A-15 Montgomery County Code

:

SUMMARY: This Regulation establishes a comprehensive regulatory system to assure that the practices used by landlords to transfer responsibility from the landlord to the tenants in apartment complexes for payment of monthly water and sewer charges are just and reasonable and include appropriate safeguards for tenants, and are in compliance with Section 29-30(a)(6), "Landlord-Tenant Relations," of the Montgomery County Code, 2001, as amended.

ADDRESS: Commission on Landlord Tenant Affairs
Department of Housing and Community Affairs
100 Maryland Avenue, 4th Floor
Rockville, MD 20850

STAFF CONTACT: Renee McLean Willis, telephone number 240-777-3670



LANDLORD TENANT COMMISSION REGULATION

Department of Housing & Community Affairs • 100 Maryland Ave. • Rockville, Maryland 20850

Subject Ratio Utility Billing System Regulation	Number 3-03 AM
Originating Department Department of Housing & Community Affairs	Effective Date November 25, 2003

1. **Purpose and scope.** This Regulation is intended to establish a comprehensive regulatory system to assure that the practices used by landlords to allocate water and sewer (wastewater) costs to tenants are just and reasonable and include appropriate safeguards for tenants, and are in compliance with Section 29-30(a)(6), "Landlord-Tenant Relations," of the Montgomery County Code, 2001, as amended ("County Code").

2. **Application.** The provisions of this Regulation apply to apartment complexes that bill tenants for water and sewer utility service on an allocated basis, referred to as a "Ratio Utility Billing System" ("RUBS").

3. **Definitions.** In this Regulation the following words and terms have the following meanings unless the context clearly indicates otherwise:

(A) **Allocated utility service** - Water and Sewer utility service that is master metered to a landlord by the Washington Suburban Sanitary Commission ("WSSC") and that the landlord allocates to tenants using a Ratio Utility Billing System.

(B) **Apartment complex** - A set of related buildings that have the same landlord and all contain multifamily rental dwelling units.

(C) **Department** - The Department of Housing and Community Affairs.

(D) **Director** - The Director of the Department of Housing and Community Affairs or the Director's designee.

(E) **Landlord** - The owner, the owner's agent, lessor, or sublessor of the dwelling unit authorized to exercise any aspect of the management of the premises, except persons engaged solely in custodial and maintenance functions.

(F) **Lease** - Any written agreement that establishes or modifies the terms, conditions, rules, regulations or any other provisions concerning the use and occupancy of a dwelling unit.

(G) **Master meter** - A meter used to measure, for billing purposes, all water usage of an apartment complex, including common areas, common facilities, and dwelling units.



LANDLORD TENANT COMMISSION REGULATION

Department of Housing & Community Affairs • 100 Maryland Ave. • Rockville, Maryland 20850

Subject Ratio Utility Billing System Regulation	Number 3-03 AM
Originating Department Department of Housing & Community Affairs	Effective Date November 25, 2003

(H) **Ratio Utility Billing System** - the system under which the cost of water and/or sewer utility service that is master metered to a landlord by WSSC, is allocated to tenants by the landlord through the use of a formula that estimates the water and sewer use of each rental unit in the apartment complex.

(I) **Tenant** - Any person who occupies a dwelling unit for living or dwelling purposes with the landlord's consent.

4. **Lease.**

(A) When a landlord uses a Ratio Utility Billing System to bill tenants for water and/or sewer utility service, the Lease between the landlord and the tenant must include all of the following:

- (1) A statement that the tenant will be billed by the landlord for allocated water and sewer utility services;
- (2) The precise formula used by the landlord to allocate the cost of water and sewer utility services to the tenant;
- (3) A statement that any disputes relating to the computation of the tenant's bill are between the tenant and the landlord, not a third party billing agent;
- (4) The average monthly bill for all dwelling units in the apartment complex in the previous calendar year and the highest and lowest month's bills for that period;
- (5) Information regarding billing such as meter reading dates, billing dates, and due dates;
- (6) The time period within which the landlord must repair leaks in the tenant's dwelling unit and in common areas, if common areas are not submetered.
- (7) A statement that the tenant has the right to receive information from the landlord to verify the water and sewer utility bill;
- (8) The maximum amount of any service charge or administrative fee that can be billed to tenants by the landlord; and,
- (9) A statement that a copy of this Regulation is available upon request.

(B) If the landlord institutes a Ratio Utility Billing System at the commencement of the Lease, or upon renewal of an existing Lease, Section 29-34(b)(2) of the County Code does not apply.



LANDLORD TENANT COMMISSION REGULATION

Department of Housing & Community Affairs • 100 Maryland Ave. • Rockville, Maryland 20850

Subject Ratio Utility Billing System Regulation	Number 3-03 AM
Originating Department Department of Housing & Community Affairs	Effective Date November 25, 2003

5. **Records.**

(A) Upon 10 days written request by a tenant or the Director, the landlord must make the following records available for inspection at the onsite manager's office during normal business hours:

- (1) A current and complete copy of this Regulation;
- (2) Information or tips on how tenants can reduce water usage;
- (3) All the bills from WSSC to the landlord for the preceding two (2) year period;
- (4) An explanation of what formula the landlord uses to calculate the tenants' bills;
- (5) The total amount billed to all tenants each month;
- (6) Total revenues collected from the tenants each month to pay for water and sewer utility service; and
- (7) Any other information necessary for a tenant to calculate and verify a water and sewer bill.

(B) Each of the records referred to in § 5(A) must be maintained for the current year and the previous calendar year.

6. **Prohibited charges.** Charges billed to tenants under a Ratio Utility Billing System must only include bills for water and sewer utility service from WSSC, and must not include any other fees billed to the landlord by WSSC such as deposits, disconnect or reconnect fees, late payments, or other similar fees.

7. **Calculations for Allocated Utility Service.**

(A) **Common Area Calculation.** Before a landlord may allocate the WSSC master meter bill for water and sewer service to the tenants, the landlord must first deduct common area usage such as installed landscape irrigation systems, pools and laundry rooms, if any, as follows:

- (1) if all common areas are separately metered or submetered deduct the actual common area usage;



LANDLORD TENANT COMMISSION REGULATION

Department of Housing & Community Affairs • 100 Maryland Ave. • Rockville, Maryland 20850

Subject Ratio Utility Billing System Regulation	Number 3-03 AM
Originating Department Department of Housing & Community Affairs	Effective Date November 25, 2003

- (2) if common areas are not separately metered or submetered, the landlord must deduct from the total amount of the bill, seasonal common area usage for the billing period as follows:

- (a) 15 percent for an installed landscape irrigation system;
- (b) 10 percent for laundry room(s);
- (c) 10 percent for a swimming pool and for each other amenity that uses water.

(B) **Formula for Calculating Tenants' Bills.** To calculate a tenant's bill, the landlord must divide the amount of the WSSC bill, less the common area usage, by the total number of occupants in all rental units at the beginning of the month of WSSC's billing period, and multiply that number by:

- (1) the number of occupants in the tenant's rental unit at the beginning of the month for which bills are being rendered; or,
- (2) the ratio occupancy formula below which assigns a fractional portion per occupant and which is determined by the number of occupants in a rental unit at the beginning of the month for which bills are being rendered:
 - (a) rental unit with one occupant = 1
 - (b) rental unit with two occupants = 1.6
 - (c) rental unit with three occupants = 2.2
 - (d) rental unit with more than three occupants = 2.2 + 0.4 per each additional occupant over three
- (3) any other formula that is presented by a landlord and approved by the Department in advance. The landlord has the burden of proving to the Department that the proposed formula fairly and accurately allocates water and sewer usage among tenants. The Department has 30 days from the date it receives the landlord's proposed formula to make a determination whether to approve or deny use of the formula. If the Department denies use of a proposed formula, the Department must send written notice to the landlord with reasons for the denial. At the same time that a landlord presents a proposed formula to the Department, the landlord must notify all tenants in the property by first class mail that an alternate RUBS formula has been proposed to the Department, that the Department has 30 days to approve or deny use of the formula, and that the tenants have the right to submit comments regarding the proposed formula to the Director of the Department during the 30 day review period.



LANDLORD TENANT COMMISSION REGULATION

Department of Housing & Community Affairs • 100 Maryland Ave. • Rockville, Maryland 20850

Subject Ratio Utility Billing System Regulation	Number 3-03 AM
Originating Department Department of Housing & Community Affairs	Effective Date November 25, 2003

8. **Partial month's bill for move-in or move-out.** If a tenant moves in or out during a billing period, the landlord may calculate a pro-rated bill for the tenant by dividing the number of days the tenant lived in the rental unit by the number of days in the month multiplied by the bill for the month. If a tenant moves out during a billing period before the landlord receives the bill for that period from WSSC, the landlord may calculate a final bill by calculating the tenant's average bill for the last three months and multiplying that average bill by the number of days the tenant was in the rental unit divided by the number of days in that month.

9. **Administrative fee.** If a landlord uses a Ratio Utility Billing System, the bill format for each billing period must show the amount of any customer service or administrative fee charged. Such service charge or administrative fee must not exceed the maximum allowable under §54G of the Maryland Public Service Commission Law for such fees, which is currently \$1 per unit per month. The landlord may not impose any additional charges.

10. **Monthly billing for allocated water and sewer charges.**

(A) Bills for allocated water and sewer charges may be rendered to tenants on a monthly basis even though WSSC may bill the landlord on a quarterly basis.

(B) Information on bill. The bill must clearly state the following:

- (1) the duration of the billing period;
- (2) amount due for allocated water usage;
- (3) amount due for allocated sewer usage;
- (4) amount due for customer service charge or administrative fee;
- (5) total amount due for the billing period;
- (6) a statement that the bill is not from WSSC;
- (7) name and address of the tenant to whom the bill is applicable;
- (8) name, address, and telephone number of the firm rendering the bill; and,
- (9) name, address, and telephone number of the party to whom payment is to be made.

(C) **Due date.** The due date on the bill may not be less than 15 days after it is mailed or hand delivered to the tenant. A payment is delinquent if not received by the due date.



LANDLORD TENANT COMMISSION REGULATION

Department of Housing & Community Affairs • 100 Maryland Ave. • Rockville, Maryland 20850

Subject Ratio Utility Billing System Regulation	Number 3-03 AM
Originating Department Department of Housing & Community Affairs	Effective Date November 25, 2003

(D) *Estimated bill.* An estimated bill may be rendered if a master meter has been tampered with, cannot be read, or is out of order. In such a case the bill must be distinctly marked as an estimate and the subsequent bill must reflect an adjustment for actual charges.

(E) *Over billing and under billing.*

(1) Over billing. If any tenant is over billed for water and/or sewer utility service, the landlord must calculate an adjustment to the tenant's bill, and the tenant is due a refund by the landlord.

(2) Under billing. If a tenant is under billed for water and/or sewer utility services, the landlord may calculate an adjustment for bills issued, so long as the bills were issued in the previous six months. However, the landlord cannot calculate an adjustment if the tenant was under billed due to submeter malfunction, except as provided in Section 10D. If the total amount that a tenant was undercharged is \$25 or more, the landlord must offer the tenant a deferred payment plan option for the same length of time as that of the under billing. Adjustments for usage by a previous tenant must not be back billed to a current tenant.

(F) Failure by a tenant to pay a properly calculated and properly rendered allocated water and sewer utility bill constitutes a breach of lease by the tenant, and cannot be construed by a landlord to be non-payment of rent.

(G) Disputed bills. In the event of a dispute between a tenant and a landlord regarding any bill, the tenant must notify the landlord of the dispute in writing, and the landlord must investigate the matter and report the results of the investigation to the tenant in writing. The landlord's investigation and report must be completed within 30 days from the date the tenant gives written notification of the dispute to the landlord.

(H) If a landlord fails to comply with any provision of this Regulation, a tenant may file a complaint with the Director pursuant to Section 29-36(a) and (b), "Tenant's Complaints," of the County Code.

11. **Registration.** Any landlord who intends to use a Ratio Utility Billing System to allocate water and/or sewer utility service to tenants, must register with the Department in a form prescribed by the Director at least 60 days before implementing a Ratio Utility Billing System, or within 30 days of the effective date of this Regulation if a landlord is already using a Ratio Utility Billing System.